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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

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JANICE HARGROVE WARREN,

5

PLAINTIFF,

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VS.

NO. 4:19-cv-655-BSM

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DR. CHARLES MCNULTY, et al.,

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DEFENDANTS.

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DEPOSITION

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OF

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SHELBY THOMAS

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TUESDAY, JUNE 16, 2020

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A P P E A R A N C E S:

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ON BEHALF OF PLAINTIFF:

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SARAH HOWARD JENKINS, ESQUIRE

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Attorney at Law

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P. O. Box 242694

6

Little Rock, Arkansas 72223

ON BEHALF OF DEFENDANTS:

7

W. CODY KEES, ESQUIRE

8

JAY BEQUETTE, ESQUIRE (Not Present)

9

Bequette, Billingsley and Kees

425 West Capitol Avenue



Suite 3200
Little Rock, Arkansas 72201

ALSO PRESENT:

JANICE HARGROVE WARREN

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I N D E X

WITNESS:

PAGE:

SHELBY THOMAS

Direct Examination.....

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E X H I B I T S

Exhibit One through 11.....

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Reporter's Certificate.....

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1 The deposition of Shelby Thomas was
2 taken before me, Debbye L. Petre, Certified Court
3 Reporter and notary public within and for the County
4 of Pulaski, State of Arkansas, duly commissioned and
5 acting, on Tuesday, June 16, 2020, beginning at the
6 hour of 3:05 p.m., at the Offices of Bequette,
7 Billingsley and Kees, 425 West Capitol Avenue, Suite
8 3200, Little Rock, Pulaski County, Arkansas.

9 Said deposition being taken in
10 accordance with the Rules of Federal Procedure and
11 pursuant to the provisions of the Arkansas Rules of
12 Civil Procedure at instance of counsel for the
13 Plaintiff in the above-styled case in the United
14 States District Court, Eastern District of Arkansas,
15 Central Division.

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17 THEREUPON, the following proceedings were had,
18 to-wit:

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1 P R O C E E D I N G S

2 WHEREUPON,

3 SHELBY THOMAS,
4 having been called for examination, and having been
5 first duly sworn, was examined and testified as
6 follows:

7 D I R E C T E X A M I N A T I O N

8 BY MS. JENKINS:

9 Q Pastor, I want to thank you for coming today.

10 A Yes.

11 Q Is this your first deposition?

12 A Yes.

13 Q Okay. This lady is Debbye Petre, and she is a
14 court reporter, and she is transcribing everything
15 that is being said when we are on the record.

16 A Okay.

17 Q So, you will need to speak up. "Uh-huh",
18 "huh-uh", or nodding of the head can't get recorded.
19 All right?

20 A Yes, ma'am.

21 Q So, a deposition is sworn testimony, has the
22 same effect as though you were sitting in a courtroom
23 under oath in front of a judge giving testimony.

24 A Okay.

25 Q It can be used in a court of law. If for some
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1 reason you are unable to come and testify, we can
2 introduce what you have said in this room and it has
3 the same legal effect.

4 A Okay.

5 Q That's why it is so important to tell the truth.
6 Is there any reason why you couldn't tell the truth
7 today?

8 A No, ma'am.

9 Q Okay. All right. Great. Tell me just a little
10 bit about who you are. Did you grow up in Arkansas?

11 A Yes, grew up in Arkansas all my life, actually
12 in the Sherwood area. Brush Island is the community
13 where I grew up. And then, from there, I got married,
14 moved to North Little Rock for about seven years, then
15 moved back to Sherwood, and then I have been there
16 ever since.

17 Q All right. And most of your family live in the
18 Sherwood area?

19 A North Little Rock/Little Rock area.

20 Q Okay. Do you have siblings?

21 A Yes, ma'am.

22 Q And are they in Arkansas, as well?

23 A One. One is in Arkansas, and then one is in
24 Dallas, Texas.

25 Q Okay. How many children do you have?

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1 A I have four now. We have three that are me and
2 my wife, and then I have a daughter that we adopted.
3 So, she is four.

4 Q Oh, how wonderful.

5 A Yes.

6 Q That's wonderful. I understand that you are a
7 pastor and you are a youth minister?

8 A Yes. In our church we have two full-time youth
9 pastors, and I'm in the volunteer role as a class
10 pastor. So, we start with kids in the sixth grade and
11 stay with them through their first year in college.

12 Q Wonderful.

13 A Me and my wife are actually on our third class.
14 So, I have some ninth graders, I have some
15 30-year-olds, and some 21-year-olds.

16 Q That's wonderful. That's great. Tell me a
17 little bit about your work. I think you mentioned, in
18 some response, that you -- with the COVID, you have
19 been laid off?

20 A Yes, ma'am. So, Irby Electrical Distributors, I
21 worked for them for seven, almost eight years. And

22 now, with the COVID and everything slowed down, we
23 shed 27 positions and mine was one of those. So, I
24 had about a four-week vacation, and I'm back to work
25 now.

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1 Q Are you?
2 A Yes.
3 Q Good. Wonderful, wonderful. And so, you have
4 been there eight years?
5 A Yes. Seven, almost eight.
6 Q So, what do you do with --
7 A Irby Electrical?
8 Q Yes.
9 A Well, what I did with them, I was an energy
10 specialist. That was a fancy title that they gave me.
11 Really, I'm just a -- I'm in sales, I go out and help
12 customers with lighting efficiency, programs, and
13 lighting controls, upgrades, help them save money.
14 Q Great, great. Let's take a look -- if you would
15 look at Exhibit 11. If you don't have it, let me
16 know. I think I put it in my bag.
17 A No. I think Ten is the last one I see in here,
18 unless it's out of order.
19 Q Okay. Give me just a second. I may have put
20 all of them in Ms. Gillen's folder by mistake.
21 A I just wanted to make sure it wasn't out of
22 order.
23 Q No. Here it is. No. I just didn't label it.
24 I tell, you what, let's --
25 MS. JENKINS: Okay. This is 11.

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1 (WHEREUPON, Exhibits Numbered One
2 through 11 were marked for identification.)
3 BY MS. JENKINS:
4 Q Would you take a look at this document? Would
5 you read the date and the heading on that?
6 A Okay. It's March 15th, 2016. And this is
7 "District Operations, Pulaski County Special School
8 District". Is that what you are talking about?
9 Q And what is the subject of this?
10 A "Construct Mills High School Replacement and
11 Robinson Middle School Replacement projects".
12 Q Okay. And who prepared this?
13 A Derek Scott.
14 Q Okay. And would you read the rationale? What
15 is the background for this? What is the purpose of
16 this particular business item?
17 A "The Mills High School Replacement project will
18 construct a new high school, support facilities and
19 demolish the existing middle school. A companion

20 project will convert the existing Mills High School
21 into a middle school to replace Fuller Middle School
22 which was constructed in 1953."

23 Q Okay. And then --

24 A I apologize, I didn't bring my glasses. I don't
25 know why I didn't bring them.

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1 Q And this is really faint.

2 A Yes.

3 Q But this is probably one of the best copies I
4 was able to get.

5 A Yes.

6 Q The next paragraph talks about the Robinson
7 Middle School Replacement. What is the cost reflected
8 for these two projects?

9 A \$80 million.

10 Q All right. "Recommendation: I recommend
11 approval of Mills High School Replacement and Robinson
12 Middle School Replacement projects." Who was this
13 recommended by?

14 A Jerry Guess, looks like.

15 Q All right. And approved by who?

16 A Johnny Key.

17 Q All right. Were you a member of the Community
18 Advisory Board that participated in this -- the
19 generation of this agreement?

20 A I'm trying to get my dates together.

21 Q This is March 15th of 2016.

22 A Yeah. I do not remember when I was placed on
23 the Advisory Panel. I don't want to say "yes".

24 Q Were you on the panel when this --

25 A Yes.

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1 Q Do you recall this discussion?

2 A Yes. Yes, I do.

3 Q All right. How did you get placed on that
4 panel, that Board?

5 A I got -- received a letter from the Governor's
6 office saying that they were going to -- my name had
7 come up to be placed on it.

8 Q And was there lengthy discussion of this
9 particular business item?

10 A I don't know that I would say it was lengthy, I
11 mean, no more than our normal discussion in a School
12 Board meeting. I mean, I don't know that it got any
13 longer than any other item that came up.

14 Q How long is long, five minutes, ten minutes, 25,
15 a full hour?

16 A About as long as we sitting here just discussing
17 it, talking about it, him going over the rationale

18 behind it.

19 Q And what kind of rationale was shared?

20 A Well, I mean, like what is stated right here,
21 that the school was constructed in, you know, 1953 and
22 there were some things that needed to be upgraded on
23 it.

24 Q Was this an \$80 million project for the two, or
25 how was this -- how was the rationale to be executed,

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1 how was it to come about in terms of financial
2 allocation?

3 A Well, I mean, as it states on here, the source
4 on it is "Building Fund and Second Lien Bond
5 Proceeds". That's what is stated on here.

6 Q In terms of \$80 million. So, \$80 million was
7 set aside for this deal? (Indicating.)

8 A According to the document here.

9 Q And how was that \$80 million supposed to be
10 spent? Was that discussed?

11 A I don't know that that was discussed.

12 Q At all?

13 A No.

14 Q All right.

15 A Typically, whenever that comes up, they bring
16 two projects to us that have a price tag on them. We
17 don't get into, "This much is over here, that much is
18 over here," just to get it approved. Now, once the
19 project moves to that next stage, then we will get
20 contracts have to be approved, because over a certain
21 dollar amount they have to actually be approved by the
22 Board.

23 Q Do you recall approving the individual contracts
24 on this?

25 A I do not recall.

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1 Q Okay.

2 A So, the difference would have been, because we
3 were an Advisory Panel, that probably would have gone
4 to Commissioner Key's office, not to us.

5 Q All right. What other agreements or business
6 did the Community Advisory Board observe and
7 participate in?

8 A We would have heard hearings from teachers or
9 students. We would have heard stuff like that.

10 Q Do you remember any other construction projects
11 coming up before you?

12 A I don't recall. I apologize. I don't recall
13 anything else. When we were on the Advisory Board, I
14 don't recall anything else.

15 Q Okay. So, nothing else significant came up.

16 How long were you on the Advisory Board?
17 A Maybe a year before -- maybe a year before the
18 Board was given back to the local control.
19 Q All right. So, did you run for election or were
20 you automatically deemed to be a member of the Board
21 because you were on the Advisory Board?
22 A I had to run for the seat.
23 Q You had to run?
24 A Yes, ma'am.
25 Q All right. Do you know to whom Doctor Guess
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1 gave responsibility for facility oversight?
2 A That would have been Derek Scott.
3 Q Okay. Let's look at Exhibit -- wait a second.
4 Seven.
5 A Seven.
6 Q Eight and Nine.
7 A (Witness complies.) Okay.
8 Q Seven, would you read the heading on that,
9 please?
10 A The "Board of Education Meeting Minutes"?
11 Q Yes. And what is the date?
12 A Tuesday, April 11th, 2017, 6:00 o'clock.
13 Q All right. Were you present?
14 A Yes, ma'am.
15 Q All right. Turn over to page four. It should
16 be the last page of that document.
17 A (Witness complies.)
18 Q And there is a category heading that reads
19 "Financial Update on Close of Third Quarter and
20 2017-'18 Budget Process". Would you read what the
21 minutes record on that topic?
22 A "Denise Palmer presented an update on financials
23 as of the third quarter and also an update on the
24 2017-2018 budget process."
25 Q Was anything reported that gave you concern that
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1 the district was not on budget? Was there anything
2 that you heard?
3 A I apologize. I do not recall anything in 2017
4 in our meeting that caused alarm. I don't recall.
5 Q If something had, do you think you would recall
6 it?
7 A I'm not going to say "yes" to that, because I
8 mean, we had a Board meeting last week, and I don't
9 remember everything we talked about last week.
10 Q Okay.
11 A And this is 2017. I'm sorry.
12 Q That's okay. But you don't recall anything
13 causing you to think, "There is a budgetary issue that

14 I need to be concerned about"?

15 A At this moment, I don't recall there being
16 anything that caused me pause.

17 Q All right. Was there anything said or mentioned
18 that would cause you to think that Doctor Warren would
19 be concerned about?

20 A Like I said, today I don't recall there being
21 anything that raised concern about.

22 Q Okay. What is the next item listed after Denise
23 Palmer's presentation?

24 A "Construction Schedule and Budget Update"?

25 Q Yes.

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1 A You want me to read that one?

2 Q Yes.

3 A Okay. "Derek Scott reported to the Board that
4 both Mills and Robinson projects are on schedule and
5 budget. Both schools are on track for summer of 2018
6 opening."

7 Q All right. Anything in that presentation --
8 that's just the summary of the minutes. Was there
9 anything in that presentation that created a concern
10 about inequities in construction?

11 A Again, I don't recall.

12 Q Okay. Let's take a look at June 15th, 2017.
13 These are the Board minutes. Were you in attendance
14 at that meeting, sir?

15 A Yes, ma'am.

16 Q All right. Let's look over on page two.

17 A Okay.

18 Q Would you read what is at the top of the page
19 there?

20 A "Construction Update"?

21 Q Yes.

22 A "Derek Scott reported that construction of Mills
23 High School and Robinson Middle School are both on
24 schedule to open in the summer of 2018. He also
25 stated that the Mills Middle School renovation would

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1 begin this summer and Sylvan Hills High School work
2 would begin in November."

3 Q Do you recall anything in that presentation that
4 gave you a concern about the equities of construction?

5 A Again, looking back at these notes, I don't
6 recall. I don't recall.

7 Q Okay. Let's look at the -- so, if there had
8 been something that caused you concern, do you think
9 you would recall it?

10 A If I read it, I would recall it. But like I
11 said, this is just telling me there was an update. If

12 there was something specific, and it's not listed
13 there, I don't remember it.

14 Q All right. And you don't know that you would
15 remember if there had been something that made you be
16 concerned that they were not being built equitably?

17 A At one point, there was a point where we
18 recognized that there was some disparity there. I
19 don't recall when that was.

20 Q Do you recall whether it was before Doctor
21 Warren had you come by her office and look at videos?
22 Was it before that or was that the point?

23 A That would have been all in the same timeframe.

24 Q What would have been all in the same timeframe?

25 A So, it would have come up that there is

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1 discrepancies, that it would have come up in -- I
2 don't know. That would have come up. So, when was
3 this? June. If it came up in June, then the video
4 thing would have been in July. I mean, it was all in
5 the same timeframe. It wasn't like a year apart.

6 Q Okay. Was there something that came up before
7 Doctor Warren asked you to stop by and look at the
8 videos of the two facilities?

9 A There was -- I recall there being discussion
10 about it. It came up. I went -- being in the
11 industry that I'm in, I went to Robinson to look at
12 it, I went to Mills and looked at it, and I told
13 Doctor Warren, I said, "We have issues." I said,
14 "Because in my line of business, what I do, there is
15 not the same type of fixtures in this building that we
16 have out here in this building."

17 Q Do you remember when that happened, whether it
18 was August or July?

19 A I do not remember when it was. I apologize.

20 Q Okay. Do you recall the stage of development of
21 the two projects?

22 A They were both in about the same -- about the
23 same stage.

24 Q Were they under roof at that time?

25 A They were both under roof.

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1 Q Both under roof?

2 A Yes. They were not occupied. They were both
3 under roof, though.

4 Q All right. Let's look at Number Nine, Exhibit
5 Nine.

6 A (Witness complies.) Yes, ma'am.

7 Q All right. Would you read the heading on this
8 one?

9 A "Board of Education Meeting Minutes, Tuesday,

10 July 11".

11 Q Were you in attendance there, sir?

12 A Yes, ma'am.

13 Q All right. Let's go over to the last two
14 paragraphs before Old Business. Do you see the
15 Financial Update?

16 A Financial. Okay. I see Financial, yes.

17 Q Would you read that?

18 A "Denise Palmer gave her monthly Financial Report
19 and an update on the 2017-2018 budget."

20 Q Do you recall anything causing you concern about
21 the district being on budget in her report?

22 A I do not recall.

23 Q Okay. What about the paragraph that follows?

24 A "Derek Scott gave an update on Mills High
25 School, Robinson Middle School, Robinson High School

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1 Multi-Purpose facility, Mills Middle School (currently
2 Mills High School), and the demolition of the current
3 Fuller Middle School. Mr. Scott will invite the
4 architects to a Special Board Meeting in July to go
5 over the progress with the Board members."

6 Q All right. Do you recall anything in that
7 presentation that -- or report that caused you to be
8 concerned?

9 A I do not recall.

10 Q Okay. Do you have any evidence that suggests
11 that Doctor Warren knew about inequities in
12 construction before she had you to come by her office
13 on August 28th?

14 A On August 28th when I came by the office.
15 Before August 28th?

16 Q Yes.

17 A She would have known, because there was
18 discussion about it. Yes, she knew before August 28
19 when I went to her office. If that's the date it was,
20 yes, she knew about it beforehand.

21 Q Because there were discussions between whom?

22 A I don't know who else she was talking to. I
23 know me and her had that discussion.

24 Q Okay. You had had a discussion with her in
25 August about the discrepancies?

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1 A I'm not sure what timeframe, when it was, but I
2 know I had a conversation with her. If you are
3 telling me I met with her in the office in August, we
4 talked before that, before that meeting in her office.

5 Q Okay. At the meeting in her office, did you
6 watch the videos that she had?

7 A Yes.

8 Q Okay.

9 A Yes.

10 Q And so, you believe that you talked to her
11 before August 28th about the two construction
12 projects?

13 A Correct, yes.

14 Q Okay.

15 A Yes. Because I had already been to look at them
16 before that meeting, yes.

17 Q Okay. Do you have any evidence that would
18 suggest that Doctor Warren should have known about the
19 inequities in the construction earlier than when you
20 all talked about it?

21 A No.

22 Q All right. When did you know about the redesign
23 of the Mills High School campus from \$52 million to
24 \$30 million?

25 A It would have been in a meeting we had. I don't
0022

1 know if it was a Special Meeting or if it was when all
2 this stuff started coming out when we were figuring
3 out, "Okay. We spent more over here than we should
4 have." I don't recall when that was.

5 Q Do you recall when the Board first became aware
6 that there was a budget deficit?

7 A I do not recall when that was.

8 Q Okay. Have you had any contact with Derek Scott
9 since September of 2017?

10 A Is that when he left?

11 Q Do you know when he left?

12 A No. That's what I'm asking. Was that when he
13 left, September?

14 Q I need for you to answer questions rather than
15 for me to answer questions.

16 A Okay. I haven't talked to him since he left.

17 Q Okay.

18 MR. KEES: Fair enough.

19 THE WITNESS: That's what I was trying
20 to get to, I haven't talked to him since he
21 left.

22 BY MS. JENKINS:

23 Q Okay. What did you all talk about before he
24 left?

25 A District stuff. I mean, I would see him at
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1 football games, you know, because I go to football
2 games and basketball games, I would see him at games
3 in the community, just life.

4 Q All right. So, you didn't have an opportunity
5 -- let me rephrase that.

6 Did you have an opportunity to discuss with him
 7 your concerns about the discrepancies before he left?
 8 A There was one meeting he was questioned about
 9 it, and then that was like the last time we talked to
 10 him.

11 Q And at what meeting was that?

12 A I do not recall what meeting that was.

13 Q Okay. Was it before you visited with Doctor
 14 Warren in her office?

15 A That would have been before that, yes.

16 Q So, you met with Derek Scott before August --

17 A I didn't meet with him. It was in a School
 18 Board meeting.

19 Q Oh, it was in a Board meeting?

20 A Yeah, a Board meeting.

21 Q Okay.

22 A When he was giving his updates, and then I
 23 recall some questions coming up about that, yes.

24 Q And what did those questions involve?

25 A Well, he was just -- my understanding, there

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1 were some questions about what we spent, what we were
 2 spending at Robinson and what we were spending at
 3 Mills, just trying to get a good understanding on what
 4 the breakdown was. Because at that point, we didn't
 5 have a good understanding. I do remember that.

6 Q All right. So, this was more background. It
 7 was not about discrepancies?

8 A No.

9 Q It is just, "What are we spending," "How is it
 10 going?"

11 A Correct. Updates, yes.

12 Q So, it was more of an update?

13 A Yes.

14 Q Like at the July update he might have talked
 15 about that?

16 A Yes.

17 Q And you all just asked questions?

18 A Correct.

19 Q And nobody had asked questions before?

20 A Well, we always asked questions. But, you know,
 21 just your normal stuff, "So, how is Mills, where are
 22 we in the" -- "Where are we at, what stage are we in,
 23 how close are we to occupying it," that type of stuff.

24 Q Okay. Did you ever ask what the percent of
 25 allocation was between the schools, of the \$80

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1 million?

2 A I do not recall that ever coming up.

3 Q All right. What steps has the Board taken to

4 hold Derek Scott accountable?

5 A I don't know that we could actually do anything
6 to Derek Scott since he is not an employee of the
7 district anymore.

8 Q Is that just simply, no, you haven't?

9 A No, we have not, no.

10 Q Okay. And you have not discussed holding him
11 accountable?

12 A We have not discussed, no.

13 Q Okay. All right. When Doctor Guess was
14 terminated in 2017 as Superintendent, did Doctor
15 Remele talk to you about Paul Brewer serving as
16 Interim Superintendent?

17 A I mean, we were in Executive Session and we
18 talked about Paul, we talked about Doctor Warren, I
19 mean, we just talked about what our options were.

20 Q All right. And what did the discussion lead to?

21 A Doctor Warren being made our Interim.

22 Q Okay. When Doctor Guess was terminated in 2017
23 as Superintendent, did Doctor Remele talk to you about
24 John Tackett serving as Interim Superintendent?

25 A His name may have been brought up when we were

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1 in Executive Session. So, yes, we would have talked
2 about who do we have here currently that we could have
3 as an Interim until we found a permanent person.

4 Q Okay. All right. Did Doctor Remele discuss
5 with you her stepping down as President of the Board
6 and accepting an appointment as Superintendent during
7 the later search?

8 A I don't recall that conversation.

9 Q All right. She never asked you your opinion
10 about --

11 A I don't recall that.

12 Q -- being Superintendent?

13 A Yeah. I don't recall that at all.

14 Q Okay. Do you know if she discussed stepping
15 down with anyone else?

16 A Not that I know of, no.

17 Q All right. Take a look at Exhibit One and
18 Exhibit Two.

19 A One and Two.

20 Q Exhibit One, would you read that document -- the
21 top heading of that document?

22 A "Superintendent Search Constituent/Employee
23 Meetings".

24 Q Okay. And when did that -- when was this
25 document generated?

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1 A January 29th through the 30th of 2018.

2 Q Okay. Would you look over these Top Ten Themes?
3 The first one reads, "Of prime importance to all
4 groups was the effect of the district's desegregation
5 order and the district's efforts to become unitary,
6 becoming a district that views the future with new
7 optimism."

8 Second, "People are looking for the new
9 superintendent to be visible, personable, and
10 approachable, someone who is out of the administration
11 building trust and rapport across the district."

12 Three, "The new superintendent should be an
13 experienced educator who has come up through the ranks
14 and is focused on student performance, including
15 dealing with achievement gaps."

16 Four, "The district is comprised of four
17 different communities each with a varying set of
18 needs. The new superintendent will need to quickly
19 recognize how the district functions in order to
20 assess what is working well and what is not. A
21 listening tour is highly recommended in all feeder
22 patterns."

23 Five, "PCSSD is very diverse in terms of
24 socioeconomics and majority/minority status. The
25 desegregation order puts pressure on the district that

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1 causes an effort to achieve a potentially false
2 balance in terms of student discipline."

3 Six, "Someone is needed who understands how to
4 market the schools by changing the perception that the
5 district is failing. It is not. The district under
6 new leadership needs to make PCSSD a desirable or
7 'destination' district for newcomers as well as
8 attracting those that departed."

9 Seven, "The new superintendent will need to have
10 successful experience in sound fiscal management with
11 an understanding of equitable application of resources
12 to meet student learning needs wherever they attend.
13 Teacher raises are going to be a continuing issue that
14 affects staff morale."

15 Eight, "Strong communication skills are really
16 important. He or she will need to be able to deliver
17 the district's vision for success in writing or in
18 person with a consistent message that is clear and
19 uniting."

20 Nine, "The district's organizational chart needs
21 to be updated to the decreased size of the district."

22 And ten, "Students would like to have someone
23 who recognizes their voices, is open-minded,
24 objective, decisive, enthusiastic, and non-complacent.
25 They asked for more course-related textbooks and

0029

1 better maintenance of instructional equipment."

2 Did the Board review and discuss these Top Ten
3 Themes that were important to the constituents and the
4 employees?

5 A I do not remember.

6 Q Do those sound familiar at all?

7 A Again, I don't recall. I apologize.

8 Q Okay. All right. Let's look at Exhibit Two.

9 Come over to the next page.

10 A (Witness complies.)

11 Q Towards the bottom, there is a heading,
12 "Qualifications, Pulaski County Special School
13 District, Seeks a Superintendent who". And then,
14 there are 11 qualities. And those became the
15 qualities that were advertised. Could I have the
16 folder?

17 A (Witness complies.)

18 MS. JENKINS: And this would be Exhibit
19 Ten. You don't have it. I thought it was in
20 there, but it's not.

21 BY MS. JENKINS:

22 Q Would you just take a look at it? That's the
23 advertisement that includes those "Qualifications,
24 Pulaski County Special School District, Seeking a
25 Superintendent who." The reason I pulled that,

0030

1 another one of the Board members wanted to see it in
2 that fashion. I thought it might help you, as well.
3 You are free to use either one.

4 A (Witness reviews document.) All right.

5 Q Do you recall voting on these 11 qualifications?

6 A I don't recall if we voted on these or if we
7 came up with these like in an Executive Session,
8 saying this is what we wanted to advertise. I don't
9 recall how that went.

10 Q So, you don't --

11 A It's not the first time I have seen it.

12 Q So, you have seen this before, but you don't
13 remember engaging in a discussion of these?

14 A Yeah. That would have been -- I know there was
15 a discussion about it. I don't recall if it was one
16 of those we did in Executive Session or if it was in
17 open setting or how we came up with them.

18 Q All right. But you don't recall voting on
19 these?

20 A No.

21 Q All right. Do you see those 11 as reflecting
22 what the stakeholders believed are significant?

23 A Yes, ma'am.

24 Q All right. Can you help me see how these two --
25 how the qualifications reflect these Ten Top Themes?

0031

1 A I'm not going to sit here and tell you they are
2 word for word. But if you read through both lists,
3 they are basically saying the same thing. Different
4 words, but basically saying the same thing, students
5 are important, stakeholders are important, the person
6 we are going to hire has to be able to engage with
7 those people, you are going to put students first.

8 Q What about number six, "Someone is needed who
9 understands how to market the schools by changing the
10 perception that the district is failing"? Is that
11 reflected there?

12 A (Witness reviews document.) I don't see
13 anything that says precisely that on the list.

14 Q Okay. Is there anything that suggests it? Was
15 this Top Ten, number six, was that in response to
16 student choice?

17 A Is number six in response to that?

18 Q Yes. Is student choice an issue that the
19 district has to deal with?

20 A I mean, every district has to deal with that,
21 with School Choice. At the end of the day, if you
22 don't have -- if our students leave our district, we
23 don't have a district.

24 Q Okay. So, you are not sure what the -- these
25 stakeholders meant, but there is no reflection of this

0032

1 issue of School Choice in the qualifications? Is that
2 correct, or incorrect?

3 A Correct.

4 Q Okay. All right. Let me have you take a look
5 at Exhibit Three and Four.

6 A Three and Four. (Witness reviews documents.)

7 Q Does Exhibit Three look familiar to you at all?

8 A Yes, ma'am.

9 Q And how are you acquainted with it?

10 A This would have been our rubrics that we would
11 have used as we were watching videos.

12 Q What do you mean by "rubric"?

13 A So, we would have scored it. As we were
14 watching the videos, we would have scored each person,
15 each Board member individually.

16 Q So, you would watch Joe Fisher's, he is number
17 one, and then you would score him on this sheet?

18 A Correct.

19 Q All right. So, would you circle one all the way
20 across?

21 A Well, there is a piece missing here, if I'm not

22 -- I think there would have been something that we
23 would have been using to gauge this by.

24 Q So that there was some document that you used
25 before you used this Matrix?

0033

1 A I think they would have all been at the same
2 time. If I'm not mistaken, did we not -- okay. I
3 apologize. I'm asking you a question. I think they
4 were presented with some questions that they had to
5 answer, and then we would have scored how they
6 appropriately answered our questions.

7 Q I see. So, did you have a special sheet or did
8 you make notes on your phone?

9 A No. Everything that I had we would have had in
10 there. So, I would have made notes on here as we were
11 doing everything.

12 Q All right. So, you watched the video, you made
13 a note. And then, after you watched all nine videos,
14 you then decided whether you liked one over two, or
15 one over three, one over four, you go across?

16 A I believe that's how it worked, yes, ma'am.

17 Q And then, you decided whether you liked two
18 better than three or two better than four or two
19 better than five?

20 A I believe that is how it worked.

21 Q All right. And you keep on down until you got
22 to whether you liked seven better than eight, seven
23 better than nine, and then eight better than nine?

24 A I don't recall. I don't -- there is some other
25 instructions on how we filled this out, and I don't --

0034

1 without -- we are missing some of the -- there is
2 another piece to this.

3 Q There was a two-page instruction sheet.

4 A Yes.

5 Q You had that two-page instruction sheet. Was
6 that all you had?

7 A Yeah, that's all we would have had. Yeah.

8 Because I don't think that you are seeing the one over
9 two. There are some -- there were some mathematical
10 totals here to get you to the -- when you got to our
11 top three.

12 Q So, it says, "Circle your choice."

13 A Yeah.

14 Q All right. And you were not supposed to fill in
15 this part, Ray and Associates filled in that part.
16 You were just supposed to circle whether you liked Joe
17 Fisher better than Sharon Griffin, did you like Joe
18 Fisher better than John Gunn, did you like Joe Fisher
19 better than --

20 A Okay.
21 Q Is that what --
22 A Yes, yes. And then, once it tallies up, that
23 will -- yeah. Based on how many likes one guy over
24 nine or whatever, then that's how you got your tally.
25 That's correct.

0035

1 Q All right. Do you recall selecting nine, that
2 would have been Doctor Warren, over any of these?
3 A I really do not recall what my tallies were on
4 this.
5 Q All right. Did you intend to select her over
6 any of the other eight?
7 A I'm not going to sit here and say I intended on
8 it. But when we sat in our room to find an Interim
9 for Doctor Guess, I wanted Doctor Warren. So, she was
10 always an option in my book.
11 Q All right. Was she an option in your book for
12 this particular search, for the final selection?
13 A Yes, ma'am. Yes.
14 Q All right. Would you look at Exhibit Two again?
15 A Okay. Two.
16 Q How many people did Ray and Associates contact
17 about this vacancy? Look at paragraph one.
18 A 1,177.
19 Q Okay. And go over to paragraph four. Out of
20 1,177 contacts, how many people actually applied?
21 A 36.
22 Q 36 people. Would you look at this Exhibit Four?
23 A (Witness complies.)
24 Q Is there anything odd to you about Exhibit Four?
25 A No, ma'am.

0036

1 Q Okay. Let's look at one last thing. Let's look
2 at those 11 qualities. You can either use Exhibit Two
3 or Ten. Look at those 11 qualities.
4 A This one?
5 Q Yes.
6 A (Witness reviews document.)
7 Q Did Doctor Warren meet those 11 qualities?
8 A (Witness reviews document.) Yes, ma'am.
9 Q All right. Did you take any notes during the
10 executive meeting on March 27, 2017 when the Board did
11 this? (Indicating.)
12 A Yes, ma'am. I would have taken my notes on the
13 papers that they gave us, yes, ma'am.
14 Q Did you keep those notes?
15 A No, ma'am. I turned all that back in.
16 Q All right. Do you recall getting a packet with
17 the applications of the other 27 candidates, or

18 applicants? Do you recall going through a stack of
19 applications?

20 A I think -- no, I think the only ones we received
21 would have been the ones from -- that we got, we did
22 interviews, that we had interviews with.

23 Q Those nine. Okay. All right. Can you describe
24 that March 27, 2017 session? Who led the discussion,
25 or who opened up?

0037

1 A This is in our Executive Session?

2 Q Yes.

3 A I mean, our Executive Sessions are not really
4 like a meeting, a typical meeting. I mean, there is
5 an Executive Session for anybody in the room to have
6 an opportunity to speak.

7 Q All right. Did anybody say anything during that
8 session?

9 A I mean, you know, we said a lot.

10 Q Oh, you did. What did you all say?

11 A I mean, we just -- we would have gone through
12 the package that we had and said, "Okay, this person,
13 I see this. Okay, I see that." Nothing in particular
14 like, "I don't like this person, I don't like that
15 person," none of that. I never knew how anybody
16 voted, other than how I voted on my piece of paper.

17 Q Okay.

18 A So, yeah, there wasn't any conversation about
19 any particular applicant.

20 Q All right. Were there conversations while the
21 videos were playing or after a video ended?

22 A No, nothing other than, "Okay. Now make your
23 notes."

24 Q Make your notes. All right.

25 A The whole point was, we didn't want it to be

0038

1 biased. So, we kept quiet as far as that was
2 concerned.

3 Q Okay. All right. Do you recall what you did
4 with your Matrix?

5 A I turned all that in to Ray and Associates.

6 Q All right. Did you get anything back from them?

7 A We just received back the tally, like the one,
8 two, three, this is the order.

9 Q Okay.

10 A We didn't receive any of our notes back or how
11 anybody in particular voted.

12 Q Just the totals?

13 A Just total.

14 Q Do you still have your copy?

15 A No. So, when I say we received it back, it was

16 in there. They did it -- if I'm not mistaken, they
17 did that in there. They showed it to us and then they
18 kept all that.

19 Q They kept that?

20 A Yeah. They didn't send it to us. Like we
21 viewed it there, they kept it, then we went to the
22 next step.

23 Q All right. At any time during the meeting on
24 the 27th did you all discuss, as a Board, district
25 policy regarding candidate preference? Give me just a

0039

1 second and I will tell you which one it is.

2 DOCTOR WARREN: Five.

3 BY MS. JENKINS:

4 Q Exhibit Number Five. If you will read the
5 outside cover of Number Five.

6 A "Personnel Policies for Certified Staff".

7 Q The date, sir?

8 A I'm sorry. 2017-2018.

9 Q All right. And would you read the heading and
10 the first paragraph?

11 A "Promotion and Transfer Policy".

12 Q All right. And then, read the first paragraph?

13 A Oh, I'm sorry. I thought you just wanted me to
14 read that part. I'm sorry.

15 Q That's okay.

16 A "The general policy of the district is to employ
17 the most able and best qualified persons with the
18 proper credentials for all positions. However, PCSSD
19 favors promotions from within so that where, in the
20 opinion of the administration, ability,
21 qualifications, and credentials of an existing
22 employee are equal to those of an outside applicant,
23 the existing employee will be favored for promotion."

24 Q All right. Did you all discuss this policy at
25 all on the 27th?

0040

1 A No, ma'am.

2 Q All right. Let's look at Exhibit Six.

3 A (Witness complies.)

4 Q Okay. And would you read the top heading of
5 Exhibit Six?

6 A "Application for Superintendent of Schools".

7 Q And is that the PCSSD logo on the left?

8 A Yes, ma'am.

9 Q And would you read the name of the applicant and
10 the date of application?

11 A Okay. Harris, James P., date 3-5, 2018.

12 Q Okay. All right. And what was his present
13 position?

14 A Superintendent.
15 Q All right. Let's look at his educational
16 record. Alvernia University in Reading, Pennsylvania.
17 What degree and when was he going to get that degree
18 that's listed for Alvernia University?
19 A 2020.
20 Q All right. So, he had not yet acquired his
21 educational degree; is that right?
22 A Yes, ma'am.
23 Q All right. What degree did he get from
24 University of Dayton in Dayton, Ohio?
25 A Alternative Superintendent License.
0041
1 Q All right. So he had a degree in Alternative
2 Superintendent License Program in 2012?
3 A 2012, uh-huh.
4 Q All right. Come over to Employment Experience.
5 That's going to be three pages.
6 A (Witness reviews document.)
7 Q What was his present position when he applied
8 for this job?
9 A Superintendent.
10 Q All right. And before that, what was his
11 position?
12 A Director of Operations and Student Services.
13 Q Before that?
14 A Chief Operating Officer.
15 Q And before that?
16 A Chief Operating Officer.
17 Q Okay. And he started that last position in
18 October of 2007; is that correct?
19 A Yes, ma'am.
20 Q All right. Through May of 2010?
21 A Yes, ma'am.
22 Q Does he list any teaching experience?
23 A Not that I see.
24 Q Okay. Let's go back to that page.
25 A This?
0042
1 Q Yes. Go to the second page. And that's the
2 exhibit I think we marked Ten.
3 A This one?
4 Q Yes. Would you look at Requirements? Would you
5 read what the Requirements state, please?
6 A "The candidate must have superintendent
7 credentials. More information about Arkansas'
8 Superintendent accreditation process is available at
9 the Department of Education website."
10 Q So, did you all expect the person to qualify for
11 Arkansas Superintendent credentials?

12 A The person applying?

13 Q Yes.

14 A Yes, ma'am.

15 Q Okay. Did anyone on the Board discuss what
16 those requirements were?

17 A No, ma'am.

18 Q Okay. So, you all did not discuss that the
19 Arkansas licensing requirements required four years of
20 teaching?

21 A We didn't discuss that, no, ma'am.

22 Q You didn't?

23 A No, ma'am.

24 Q Okay. In the Answer that was submitted for you
25 as a defendant, there is a contention that Doctor

0043

1 McNulty is superior to Doctor Warren. What evidence
2 do you have to support that?

3 A In my Answer I said that, you said?

4 Q Yes. In the Answer that was filed for
5 everybody, for all of the directors, as individuals,
6 for the district, as a whole.

7 A That would have been based on the interview
8 process, not necessarily what is documented on paper
9 as far as the application or resume. It's just from
10 the interview process.

11 Q So, the interview -- the in-person interview or
12 the video interview?

13 A The video interview.

14 Q Okay. Executive Session was held April 3rd,
15 2018. Can you describe what happened there at 10:11
16 a.m.? That's April 3rd, 2018.

17 A At what time?

18 Q 10:11 a.m.

19 A So, that would have been a morning meeting?

20 Q Yes.

21 A Was that a Saturday?

22 Q (No response.)

23 A I don't recall.

24 Q You don't recall?

25 A No. I'm sorry.

0044

1 Q All right. Do you recall interviewing the
2 finalists?

3 A We did interview finalists, yes.

4 Q All right. Do you recall what happened in those
5 interviews?

6 A We sat and they told us about themselves and we
7 asked questions.

8 Q Okay. Did everyone ask questions, did you ask a
9 question?

10 A Everyone asked questions.
11 Q Okay. All right. That Executive Session ended
12 at 12:10 for lunch. Did you have lunch together as a
13 group?
14 A We probably would have had lunch in the
15 boardroom.
16 Q Okay. Was there any discussion of candidates
17 during that lunch?
18 A Not candidates.
19 Q Okay. Do you recall who you sat with and what
20 you all talked about?
21 A No. I mean, most of the time I sit -- where I
22 sit is normally Ms. Tina to my left and either -- it
23 was Mayor Kemp -- Mayor Kemp or Doctor Remele would
24 have been to my right. That's how we -- you know, we
25 are creatures of habit. This is where we sit when we

0045

1 go in a room.
2 MR. KEES: Just like at school.
3 THE WITNESS: Exactly. No rhyme or
4 reason.
5 BY MS. JENKINS:
6 Q You just do it?
7 A Yes. Like at church.
8 Q Was anyone absent from the luncheon?
9 A I do not recall.
10 Q Okay.
11 A I'm sorry.
12 Q All right. The minutes show that you all
13 reconvened at 1:45 -- 1:47 and then moved into
14 Executive Session at 1:48. Do you recall that
15 interview?
16 A I don't recall the order of the interviews, who
17 we interviewed. I do not recall.
18 Q All right. Do you recall the atmosphere? Were
19 people engaged in the afternoon interview?
20 A I recall us being engaged, yes, ma'am.
21 Q All right. That regular session -- that
22 Executive Session ended and the -- I'm sorry. That
23 Executive Session ended and then your regular session
24 reconvened at 4:28, and you adjourned for dinner. Was
25 dinner in the boardroom?

0046

1 A I don't recall. We may have stayed there. I
2 really don't recall.
3 Q You don't recall?
4 A No, ma'am.
5 Q Okay. During dinner, did you all make a
6 decision on the Superintendent?
7 A Like I said, I don't recall. I don't recall if

8 we had dinner together, but I can tell you we didn't
9 make any decisions sitting around a table like
10 individually.

11 Q Okay.

12 A It was done in an appropriate way, the way it
13 should have been done.

14 Q All right. The minutes show that you reconvened
15 at 5:38 in regular session. This is after dinner.

16 A Okay.

17 Q You were adjourned with the goal of reconvening
18 at 5:30. There are witnesses who, if called, would
19 testify that they heard Doctor Remele and Tina Ward
20 talking very loudly, even with the door closed. Do
21 you remember any sort of debate or discussion between
22 the two of them?

23 A I do not.

24 Q Okay. All right. Do you recall anything that
25 happened when you all voted to select Doctor McNulty

0047

1 as Superintendent?

2 A Meaning anything out of the ordinary?

3 Q Just remember anything, whether ordinary or out
4 of the ordinary.

5 A I don't recall anything out of the ordinary. I
6 don't recall anything.

7 Q Do you recall anything that ordinarily happens?

8 A I mean, we all have our discussion about, you
9 know, "I like this person," "I don't like that
10 person," "I think we should go with this person." I
11 mean, "I think we should hire this person," "I think
12 we should fire this person." "I think this person put
13 on a good case to keep their job." "Don't think this
14 person made a good case to keep their job." I mean,
15 we have a discussion in the room when we are in
16 Executive Session.

17 Q All right. In August -- we have already talked
18 about this date. August of 2017, Doctor Warren called
19 each Board member and asked the Board members to stop
20 by and view the videos of the discriminatory
21 construction of Mills and -- of Mills High School.
22 After that, on September 8th, there was a hearing
23 before Judge Marshall. And four days later, the Board
24 held an Executive Session on Personnel. Do you recall
25 the topic of discussion?

0048

1 A I do not.

2 Q Okay. Do you recall the Board giving Doctor
3 Warren any evaluation?

4 A No, ma'am.

5 Q Okay.

6 A If I'm not mistaken, we wouldn't have given her
7 an evaluation because she hadn't been -- she wasn't
8 our Superintendent for a year. So, it's my
9 understanding there wouldn't have been a need for an
10 evaluation.

11 Q If she was employed as an Interim Superintendent
12 as an employee, wouldn't she be entitled to an
13 evaluation?

14 A For one year. She wasn't Interim for a year.
15 So, that's my understanding, that we do an annual
16 evaluation on the Superintendent, that's an annual.
17 She wasn't in the Interim for a year. So, what would
18 we evaluate her for?

19 Q When did she start as Interim Superintendent?

20 A I do not recall. It would have been right after
21 Doctor Guess, on whatever meeting that was. I don't
22 recall. I know it wasn't a year.

23 Q Okay. When did Doctor McNulty start his tenure
24 as Superintendent?

25 A I do not recall.

0049

1 Q All right. So, no evaluation was given --

2 A Correct.

3 Q -- of her performance as an Interim
4 Superintendent?

5 A Correct.

6 Q All right. That's all I have. Is there
7 anything that you would like to add?

8 A No. We are good?

9 Q All right.

10 MR. KEES: I have no questions. Thank
11 you.

12 MS. JENKINS: Thank you so much for
13 coming. We appreciate you taking out time,
14 especially given the circumstances that you
15 faced today.

16 THE WITNESS: Thank you. Thank you so
17 much.

18 MS. JENKINS: You're welcome.

19 (WHEREUPON, at 4:19 p.m., the taking of
20 the above-entitled deposition was concluded.)
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23
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0050

1 C E R T I F I C A T E
2 STATE OF ARKANSAS)
)

3 COUNTY OF PULASKI)

4 I, DEBBYE L. PETRE, Certified Court
5 Reporter in and for the County of Pulaski, State of
6 Arkansas, duly commissioned and acting, do hereby
7 certify that the above-entitled proceedings were taken
8 by me in Stenotype, and were thereafter reduced to
9 print by means of computer-assisted transcription, and
10 the same fully, truly, and correctly reflects the
11 proceedings had.

12 I FURTHER CERTIFY that I am not attorney
13 or counsel of any of the parties, nor am I relative or
14 employee of any attorney or counsel or party connected
15 with the action, and have no interest in the outcome
16 or results of this litigation.

17 WHEREFORE, I have subscribed my
18 signature and seal as such court reporter in the City
19 of Little Rock, County of Pulaski, State of Arkansas,
20 this the 5th day of July, 2020.

21
22
23 _____
DEBBYE L. PETRE, CCR
COURT REPORTER IN AND FOR
PULASKI COUNTY, ARKANSAS

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